

Deverie J. Christensen, Bar No. 6596

[christensend@jacksonlewis.com](mailto:christensend@jacksonlewis.com)

Daniel I. Aquino, Bar No. 12682

[Daniel.aquino@jacksonlewis.com](mailto:Daniel.aquino@jacksonlewis.com)

**JACKSON LEWIS LLP**

300 S. Fourth Street, Suite 900

Las Vegas, Nevada 89101

Tel: (702) 921-2460

Fax: (702) 921-2461

Paul V. Kelly (pro hac vice pending)

[paul.kelly@jacksonlewis.com](mailto:paul.kelly@jacksonlewis.com)

**JACKSON LEWIS LLP**

75 Park Plaza

Boston, MA 02116

Tel: (617) 3670025

Fax: (617) 367-2155

*Attorneys for Defendants*

Mission Support and Test Services LLC, Mark

Martinez and Honeywell International Inc.

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

STEPHEN MUSIN,

Plaintiff,

vs.

MISSION SUPPORT AND TEST SERVICES  
LLC, MARK MARTINEZ. AND  
HONEYWELL INTERNATIONAL, INC.,

Defendants.

Case No. 2:19-cv-2058-JAD-NJK

**Stipulation and Order  
to Withdraw Joint Motion  
to Dismiss Second Amended  
Complaint**

ECF Nos. 49, 60

IT IS HEREBY STIPULATED by and between the parties, through their respective counsel, that the Joint Partial Motion to Dismiss Plaintiff's Second Amended Complaint filed by Defendants Mission Support and Test Services LLC and Mark Martinez (ECF No. 49) shall be withdrawn as provided below. This stipulation is submitted and based upon the following:

1. Defendants' filed their Joint Partial Motion to Dismiss Plaintiff's Second Amended Complaint on January 15, 2021. ECF No. 49.

1           2.     On February 12, 2021, Plaintiff filed an opposition attaching documents  
2 demonstrating that the issues raised cannot be fully addressed through reliance on the pleadings,  
3 and that discovery is necessary if the Court converts the motion to a summary judgment motion.  
4 ECF No. 53.

5           3.     The parties subsequently conferred on the issues and agree this matter will require  
6 discovery and the parties may re-raise these issues at the summary judgment phase after the  
7 parties have had an opportunity to engage in discovery.

8           4.     Moreover, the parties have agreed to mediate Plaintiff's Claims with the  
9 Honorable (Ret.) Magistrate Judge Peggy A. Leen at JAMS. The parties believe withdrawal of  
10 the motion to dismiss will aid in potential resolution of this matter because the parties can direct  
11 time and resources toward resolution rather than motion practice and the time and expense of  
12 discovery. The parties are presently working on scheduling a mediation date with Judge Leen.

13          5.     Accordingly, the parties agree that the motion to dismiss should be withdrawn,  
14 without prejudice to the parties re-raising these issues after discovery at the summary judgment  
15 phase, so as not to unnecessarily expend judicial resources and resources of the parties.

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23

24

25

26

27

28

6. If mediation is unsuccessful, Defendants may bring the motion as one for summary judgment following discovery on the issues.

This request for a withdrawal of the motion to dismiss is made in good faith and not for any improper purpose.

Dated this 3rd day of March, 2021.

JACKSON LEWIS LLP

KEMP & KEMP

/s/ Deverie J. Christensen

/s/ James P. Kemp

Deverie J. Christensen, Bar No. 6596  
300 S. Fourth Street, Suite 900  
Las Vegas, Nevada 89101  
Paul V. Kelly (*pro hac vice pending*)  
75 Park Plaza

James P. Kemp, Bar No. 6375  
7435 W. Azure Drive, Suite 110  
Las Vegas, Nevada 89130  
*Attorney for Plaintiff Stephen Musin*

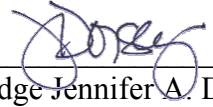
Boston, MA 02116

*Attorneys for Defendants*

*Mission Support and Test Services LLC,  
Mark Martinez and Honeywell International, Inc.*

### ORDER

Based on the parties' stipulation [ECF No. 60] and good cause appearing, IT IS HEREBY ORDERED that the Joint Motion to Dismiss [ECF No. 49] is DEEMED WITHDRAWN.

  
\_\_\_\_\_  
U.S. District Judge Jennifer A. Dorsey  
Dated: March 3, 2021